IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3405 of 1990

For Approval and Signature:

HON'BLE MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

Appearance:
1. Special Civil Application No. 3405 of 1990
MR DD VYAS for Petitioner No. 1-2
RULE SERVED for Respondent No. 1,4
MS ARCHANA RAVAL, ASSTT. GOVERNMENT PLEADER
for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE K.A.PUJ
Date of Order: 19/02/2004

ORAL JUDGEMENT

The present petition is filed under Article 226 of the Constitution of India, challenging order dated 16.1.1990 passed by the Gujarat Higher Secondary Schools Services Tribunal, whereby the appeal filed by the respondent No.1 was allowed and the order dated 6.7.1989 passed by the respondent No.3 - Director of Higher Education, declaring respondent No.1 as surplus teacher and as such liable to be relieved on absorption at some other school, was quashed and set aside.

Mr. D.D. Vyas, learned Senior Advocate appearing for the petitioner submitted that pursuant to the said order of the Tribunal, the responent No.1 was

continued with the petitioner No.2 school and has also retired on superannuation, during the pendency of this petition. He has further submitted that though the view taken by the Tribunal is highly contested in this matter and it is not the correct view, since the respondent No.1 has already retired from service, the matter has become infructuous and a decision on merits would not serve any purpose.

Though notice of rule was duly served on respondents Nos. 1 and 4, no one appears on their behalf. Learned Assistant Government Pleader Ms. Archana Raval appears on behalf of respondent No.3 and she also supports the petitioners in this petition.

Since the respondent No.2 has already retired and by virtue of the fact that the petition has already become infructuous, the Court is not called upon to decide the merits of the case. Therefore, without expressing any view on the merits of the case whether the Tribunal is correct or not, the petition is dismissed as having become infructuous. In any case, this should not be treated as the view expressed by the Court confirming or rejecting the view expressed by the Tribunal. Rule is discharged with no order as to costs.

(K.A. Puj, J.)

*/Mohandas